

**Executive Summary – Enforcement Matter – Case No. 45160**

**City of Broadus**

**RN101720928**

**Docket No. 2012-2022-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Broadus WWTF, located at the end of Sheffield Street, approximately 0.7 mile southwest of the intersection of County Road 361 and Shippy Road, approximately 300 feet west of State Highway 147, adjacent to Caney Creek, San Augustine County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 8, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$19,925

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$570

**Total Due to General Revenue:** \$19,355

Payment Plan: 35 payments of \$553 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

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**City of Broadus**

**RN101720928**

**Docket No. 2012-2022-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** August 6, 2012

**Date(s) of NOE(s):** October 5, 2012

***Violation Information***

1. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011772001, Operational Requirements No. 1, and 30 TEX. ADMIN. CODE § 305.125(1) and (5)].
2. Failed to prevent the discharge of sludge from the Facility into or adjacent to water in the state [TPDES Permit No. WQ0011772001, Effluent Limitations and Monitoring Requirements Nos. 2 and 6 and Permit Conditions No. 2.d., 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].
3. Failed to submit accurate monitoring results at the intervals specified in the permit [TPDES Permit No. WQ0011772001, Monitoring and Reporting Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4].
4. Failed to collect effluent samples at the frequency specified in the permit [TPDES Permit No. WQ0011772001, Effluent Limitations and Monitoring Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4].
5. Failed to submit the annual sludge report to the TCEQ Beaumont Regional Office by September 30 of each year [TPDES Permit No. WQ0011772001, Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures:

- a. By August 9, 2012, installed a vacuum breaker at the hose bib outside the chlorination room;
- b. By August 10, 2012, replaced the grating for the bar screen;
- c. By August 13, 2012, provided the electrical disconnect box serving lift station no. 2 with an intruder resistant fence;

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d. By August 16, 2012:

- i. Removed all solids from the chlorine contact chamber by pumping them back into the wet well and washed out the chlorine contact chamber;
- ii. Began collecting *Escherichia coli* samples at the frequency specified in the permit; and
- iii. Properly removed and disposed of all accumulations of sludge in the receiving stream.

e. By August 22, 2012:

- i. Adjusted the chlorinator and returned to compliance with permitted chlorine residual and dissolved oxygen ("DO") levels; and
- ii. Removed all solids from treatment trains nos. 1 and 2 and returned operations at the Facility within the recommended ranges.

f. By October 12, 2012, installed a new pump at lift station no. 2;

g. By October 16, 2012:

- i. Updated the Facility's operational guidance and conducted employee training to ensure that all reporting procedures are properly accomplished;
- ii. Submitted the sludge report for the reporting period ending July 31, 2011 to the TCEQ Beaumont Regional Office; and
- iii. Submitted a revised discharge monitoring report for the monitoring period ending January 31, 2012 to include corrected data.

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 60 days, develop and implement a solids management plan ("SMP"). The SMP shall outline a program of internal process control testing to monitor the efficiency of the wastewater treatment plant and to maintain the proper solids balance within the system. The plan shall be prepared by a Texas registered professional engineer. At a minimum, the plan shall include the following items:

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i. A schedule for performing the following process control analysis and recommended ranges to be maintained: mixed liquor thirty-minute sludge settleability, mixed liquor suspended solids ("MLSS"), mixed liquor dissolved oxygen ("DO") concentration, clarifier sludge blanket depth, and residual chlorine concentration;

ii. Procedures outlining actions to be taken in the event that any of the above process control analyses fall outside the recommended range; and

iii. Specific sampling locations for the above stated process control measurements.

Organized, written records of the process control analyses shall be maintained for a period of three years at the Facility in a daily log book and shall be made available to TCEQ representatives upon request.

b. Within 75 days, submit written certification demonstrating that Respondent has begun operating the Facility within the recommended range for DO and MLSS to mixed liquor volatile suspended solids ratio in treatment trains nos. 1 and 2; and compliance with Ordering Provision a.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Shirley J. Parker, Mayor, City of Broadus, P.O. Box 149, Broadus, Texas 75929

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>DATES</b>	<b>Assigned</b>	8-Oct-2012	<b>Screening</b>	8-Oct-2012	<b>EPA Due</b>	
	<b>PCW</b>	10-Oct-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Broadus		
<b>Reg. Ent. Ref. No.</b>	RN101720928		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	45160	<b>No. of Violations</b>	7
<b>Docket No.</b>	2012-2022-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$19,250**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **20.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,850**

Notes Enhancement for one agreed order with denial of liability.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$3,175**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$7,690  
Approx. Cost of Compliance \$213,625  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$19,925**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** **\$19,925**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$19,925**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$19,925**

Screening Date 8-Oct-2012

Docket No. 2012-2022-MWD-E

PCW

Respondent City of Broadus

Policy Revision 3 (September 2011)

Case ID No. 45160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101720928

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one agreed order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 20%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 20%

Screening Date 8-Oct-2012

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PCW

Respondent City of Broadus

Policy Revision 3 (September 2011)

Case ID No. 45160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101720928

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011772001, Operational Requirements No. 1, and 30 Tex. Admin. Code § 305.125(1) and (5)

Violation Description

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the electrical disconnect box serving lift station no. 2 was not located within the fence and the fence was not intruder resistant; one of the pumps in lift station no. 2 was not operational; the grating for the bar screen was rusted and corroding; there were two feet of solids in the chlorine contact chamber and solids accumulations were noted in the discharge catch basin following the 60 degree V-notch weir; and a vacuum breaker was missing from the hose bib outside the chlorination room.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 5

63 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$6,250

Five quarterly events are recommended, one for each component, from the investigation date of August 6, 2012 to the screening date of October 8, 2012.

## Good Faith Efforts to Comply

10.0% Reduction

\$625

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

N/A

(mark with x)

Notes

The Respondent achieved compliance by October 12, 2012 for this violation.

Violation Subtotal \$5,625

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$46

Violation Final Penalty Total \$6,875

This violation Final Assessed Penalty (adjusted for limits) \$6,875



# Economic Benefit Worksheet

**Respondent** City of Broadus  
**Case ID No.** 45160  
**Reg. Ent. Reference No.** RN101720928  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	6-Aug-2012	12-Oct-2012	0.18	\$46	n/a	\$46

### Notes for DELAYED costs

Estimated cost to install a vacuum breaker at the hose bib outside the chlorination room; replace the grating for the bar screen; provide the electrical disconnect box serving lift station no. 2 with an intruder resistant fence; to install a new pump at lift station no. 2; and to remove solids from the chlorine contact chamber and discharge catch basin. Date required is the investigation date, and the final date is the date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$46



Screening Date 8-Oct-2012

Docket No. 2012-2022-MWD-E

PCW

Respondent City of Broadus

Policy Revision 3 (September 2011)

Case ID No. 45160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101720928

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

TPDES Permit No. WQ0011772001, Effluent Limitations and Monitoring Requirements Nos. 2 and 6 and Permit Conditions No. 2.d., 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

## Violation Description

Failed to prevent the discharge of sludge from the Facility into or adjacent to water in the state and failed to meet permitted effluent limits. Specifically, sludge was noted in the receiving stream at the outfall and approximately 75 feet downstream of the outfall and a grab sample documented that the chlorine residual maximum concentration exceeded the permitted limit. Additionally, a dead bluegill fish, a dying sunfish and a stressed catfish were noted near the outfall. See attached table for sample results.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	X		
Potential			

Percent 30.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceeded levels that are protective of human health or environmental receptors.

Adjustment \$17,500

\$7,500

## Violation Events

Number of Violation Events 1

16 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

One monthly event is recommended from the investigation date of August 6, 2012 to the compliance date of August 22, 2012.

## Good Faith Efforts to Comply

25.0% Reduction

\$1,875

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent achieved compliance by August 22, 2012 for this violation.

Violation Subtotal \$5,625

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$7,125

This violation Final Assessed Penalty (adjusted for limits) \$7,125

# Economic Benefit Worksheet

**Respondent** City of Broadus  
**Case ID No.** 45160  
**Reg. Ent. Reference No.** RN101720928  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$3,000	6-Aug-2012	22-Aug-2012	0.04	\$7	n/a	\$7
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly remove and dispose of all accumulations of sludge in the receiving stream and to adjust the chlorinator and return to compliance with permitted chlorine residual and dissolved oxygen ("DO") levels. Date required is the investigation date, and the final date is the compliance date.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

**TOTAL**

\$7

Screening Date 8-Oct-2012

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PCW

Respondent City of Broadus

Policy Revision 3 (September 2011)

Case ID No. 45160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101720928

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 3

Rule Cite(s)

TPDES Permit No. WQ0011772001, Monitoring and Reporting Requirements No. 1 and 30 Tex. Admin. Code §§ 305.125(1) and 319.4

Violation Description

Failed to submit accurate monitoring results at the intervals specified in the permit. Specifically, the discharge monitoring report ("DMR") for the monitoring period ending January 31, 2012 had the values for dissolved oxygen ("DO") and pH reversed.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

	Falsification	Major	Moderate	Minor
				x

Percent 1.0%

Matrix Notes

More than 70% of the rule requirement was met.

Adjustment \$24,750

\$250

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

## Good Faith Efforts to Comply

10.0% Reduction

\$25

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance by October 16, 2012 for this violation.

Violation Subtotal \$225

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

## Economic Benefit Worksheet

**Respondent** City of Broadus  
**Case ID No.** 45160  
**Reg. Ent. Reference No.** RN101720928  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	6-Aug-2012	16-Oct-2012	0.19	\$2	n/a	\$2
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	20-Feb-2012	16-Oct-2012	0.65	\$1	n/a	\$1

#### Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished (\$250) and to properly prepare and submit the revised DMR (\$25 per DMR). Dates required are the date the DMR was due and the investigation date, and the final date is the date of compliance.

### Avoided Costs

#### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$275

**TOTAL**

\$3

Screening Date 8-Oct-2012

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PCW

Respondent City of Broadus

Policy Revision 3 (September 2011)

Case ID No. 45160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101720928

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 4

Rule Cite(s)

TPDES Permit No. WQ0011772001, Effluent Limitations and Monitoring Requirements No. 1 and 30 Tex. Admin. Code §§ 305.125(1) and 319.4

Violation Description

Failed to collect effluent samples at the frequency specified in the permit. Specifically, Escherichia coli samples were not being collected monthly as required by the permit for the months of May and June 2012.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to monitor the effluent characteristics at the frequency specified in the permit will or could result in the exposure of significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 2

61 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended, one for each month.

## Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by August 16, 2012 for this violation.

Violation Subtotal \$1,875

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$106

Violation Final Penalty Total \$2,375

This violation Final Assessed Penalty (adjusted for limits) \$2,375

## Economic Benefit Worksheet

**Respondent** City of Broadus  
**Case ID No.** 45160  
**Reg. Ent. Reference No.** RN101720928  
**Media** Water Quality  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$200	6-Aug-2012	16-Aug-2012	0.03	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to begin collecting the required Escherichia coli samples at the frequency specified in the permit. Date required is the investigation date, and the final date is the date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$100	1-May-2012	30-Jun-2012	1.08	\$5	\$100	\$105

Notes for AVOIDED costs

Estimated avoided cost to collect the Escherichia coli samples (\$50 per sample) for the months of May and June 2012.

Approx. Cost of Compliance

\$300

**TOTAL**

\$106



Screening Date 8-Oct-2012  
Respondent City of Broadus  
Case ID No. 45160  
Reg. Ent. Reference No. RN101720928  
Media [Statute] Water Quality  
Enf. Coordinator Jorge Ibarra, P.E.

Docket No. 2012-2022-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 5

Rule Cite(s)

TPDES Permit No. WQ0011772001, Operational Requirements No. 1 and 30 Tex.  
Admin. Code § 305.125(1) and (5)

Violation Description

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Respondent was bypassing the dual media gravity filters and sending the effluent directly to the last treatment process.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

63 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date of August 6, 2012 to the screening date of October 8, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	x		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7,342

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500



## Economic Benefit Worksheet

**Respondent** City of Broadus  
**Case ID No.** 45160  
**Reg. Ent. Reference No.** RN101720928  
**Media** Water Quality  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200,000	6-Aug-2012	1-May-2013	0.73	\$7,342	n/a	\$7,342

Notes for DELAYED costs

Estimated cost to properly operate the dual media gravity filters. Date required is the investigation date, and the final date is the expected date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200,000

**TOTAL**

\$7,342

Screening Date 8-Oct-2012

Docket No. 2012-2022-MWD-E

PCW

Respondent City of Broadus

Policy Revision 3 (September 2011)

Case ID No. 45160

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101720928

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 6

Rule Cite(s)

TPDES Permit No. WQ0011772001, Operational Requirements No. 1 and 30 Tex. Admin. Code § 305.125(1) and (5)

Violation Description

Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, an evaluation of the mixed liquor and solids inventory indicated that the Facility was operating outside the recommended ranges for mixed liquor suspended solids (MLSS) to mixed liquor volatile suspended solids (MLVSS) ratio and DO in treatment train No. 1 and for 30-minute settleability (SV-30), MLVSS concentration, and MLSS to MLVSS ratio in treatment train No. 2.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

63 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date of August 6, 2012 to the screening date of October 8, 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	x		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$184

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

## Economic Benefit Worksheet

**Respondent** City of Broadus  
**Case ID No.** 45160  
**Reg. Ent. Reference No.** RN101720928  
**Media** Water Quality  
**Violation No.** 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	6-Aug-2012	1-May-2013	0.73	\$184	n/a	\$184

Notes for DELAYED costs

Estimated cost to begin operating the Facility within the recommended range for DO and MLSS to MLVSS ratio in treatment trains nos. 1 and 2 and to develop and implement a solids management plan. Date required is the investigation date, and the final date is the expected date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$184

Screening Date 8-Oct-2012  
Respondent City of Broadus  
Case ID No. 45160  
Reg. Ent. Reference No. RN101720928  
Media [Statute] Water Quality  
Enf. Coordinator Jorge Ibarra, P.E.

Docket No. 2012-2022-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 7

Rule Cite(s)

TPDES Permit No. WQ0011772001, Sludge Provisions and 30 Tex. Admin. Code § 305.125(17)

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2011 to the TCEQ Beaumont Regional Office by September 30, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

Greater than 70% of the rule requirement was met.

Adjustment \$24,750

\$250

Violation Events

1

1 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$25

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent achieved compliance by October 16, 2012 for this violation.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

## Economic Benefit Worksheet

**Respondent** City of Broadus  
**Case ID No.** 45160  
**Reg. Ent. Reference No.** RN101720928  
**Media** Water Quality  
**Violation No.** 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	30-Sep-2011	16-Oct-2012	1.05	\$3	n/a	\$3

#### Notes for DELAYED costs

Estimated cost to submit the sludge report to the Regional Office (\$50 per report). Date required is the date the report was due and the final date is the date of compliance. See Violation No. 3 for the estimated cost to update the Facility's operational guidance and conduct employee training.

### Avoided Costs

#### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

**TOTAL**

\$3

City of Broadus  
 RN101720928, Case No. 45160, TPDES Permit No. WQ0011772001  
 Docket No. 2012-2022-MWD-E

<b><i>EFFLUENT PARAMETER</i></b>						
<b>Units/Permit Limit</b>						
	Ammonia	Ortho-phosphorus	Total Phosphorous	TKN	Minimum DO	Cl Residual
<b><i>Location</i></b>	mg/L	mg/L	mg/L	mg/L	4 mg/L	1-4 mg/L
Outfall	5.32	2.12	1.73	6.68	2.8	> 8.0
75 feet Downstream	8.60	4.03	3.79	9.48	2.1	1.33
75 feet Upstream	1.85	0.07	0.15	4.40	np	np

milligrams per liter = mg/L; not performed = np  
 total kjeldahl nitrogen = TKN; dissolved oxygen = DO; chlorine = Cl







# Compliance History Report

**PENDING** Compliance History Report for CN600738314, RN101720928, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600738314, City of Broadus	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	8.25
<b>Regulated Entity:</b>	RN101720928, City of Broadus	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	8.25
<b>Complexity Points:</b>	4	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	08 - Sewage Treatment Facilities				
<b>Location:</b>	Located at the end of Sheffield Street, approximately 0.7 mile southwest of the intersection of County Road 361 and Shippy Road, approximately 300 feet west of State Highway 147, adjacent to Caney Creek in San Augustine County, Texas				
<b>TCEQ Region:</b>	REGION 10 - BEAUMONT				
<b>ID Number(s):</b>					
<b>WASTEWATER PERMIT</b>	WQ0011772001	<b>WASTEWATER EPA ID</b>	TX0057673		
<b>WASTEWATER LICENSING</b>	LICENSE WQ0011772001				
<b>Compliance History Period:</b>	September 01, 2007 to August 31, 2012	<b>Rating Year:</b>	2012	<b>Rating Date:</b>	09/01/2012
<b>Date Compliance History Report Prepared:</b>	October 09, 2012				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	October 09, 2007 to October 09, 2012				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Jorge Ibarra, P.E.	<b>Phone</b>	(817) 588-5890		

## Site and Owner/Operator History:

- |                                                                                                    |     |
|----------------------------------------------------------------------------------------------------|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |
| 3) If YES for #2, who is the current owner/operator?                                               | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)?                                     | N/A |
| 5) If YES, when did the change(s) in owner or operator occur?                                      | N/A |

## Components (Multimedia) for the Site Are Listed in Sections A - J

### A. Final Orders, court judgments, and consent decrees:

- |   |                                                                                                                              |                                         |
|---|------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| 1 | Effective Date: 05/18/2009                                                                                                   | ADMINORDER 2007-0888-MLM-E (1660 Order) |
|   | Classification: Moderate                                                                                                     |                                         |
|   | Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)                                                                       |                                         |
|   | Rqmt Prov: SP III G PERMIT                                                                                                   |                                         |
|   | Description: Failure to submit the Annual Sludge Reports by September 1.                                                     |                                         |
|   | Classification: Minor                                                                                                        |                                         |
|   | Citation: 30 TAC Chapter 317 317.3(e)(4)(C)                                                                                  |                                         |
|   | Rqmt Prov: OpR 1 PERMIT                                                                                                      |                                         |
|   | Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. |                                         |
|   | Classification: Minor                                                                                                        |                                         |
|   | Citation: 30 TAC Chapter 330, SubChapter A 330.15(a)                                                                         |                                         |
|   | Rqmt Prov: SP PERMIT                                                                                                         |                                         |
|   | Description: Failure to dispose of sludge at a TCEQ authorized land-application site or co-disposal landfill.                |                                         |
|   | Classification: Minor                                                                                                        |                                         |
|   | Citation: 30 TAC Chapter 317 317.6(b)(1)(D)                                                                                  |                                         |
|   | 30 TAC Chapter 317 317.6(b)(1)(E)                                                                                            |                                         |

Rqmt Prov:OPR 1 PERMIT

Description: Failure to properly maintain safety equipment for the gas chlorination facilities.

Classification: Minor

Citation: 30 TAC Chapter 317 317.7(b)

Rqmt Prov:Operational Requirements No. 1 PERMIT

Description: Failure to maintain an accessible stairway to the wastewater treatment plant.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov:OPR 1 PERMIT

Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(c)

30 TAC Chapter 319, SubChapter A 319.11(d)

Rqmt Prov:M&RR 2 PERMIT

Description: Failure to properly perform chlorine residual analysis.

Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)

Rqmt Prov:M&RR 2 PERMIT

Description: Failure to properly prepare complete chain of custody (COC) records.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov:OPR 1 PERMIT

Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	October 29, 2007	(622268)
Item 2	December 10, 2007	(622270)
Item 3	December 27, 2007	(622271)
Item 4	February 15, 2008	(674001)
Item 5	February 25, 2008	(674000)
Item 6	April 09, 2008	(692274)
Item 7	April 28, 2008	(692275)
Item 8	June 02, 2008	(692276)
Item 9	July 07, 2008	(713374)
Item 10	July 28, 2008	(713375)
Item 11	October 03, 2008	(713376)
Item 12	October 23, 2008	(729449)
Item 13	November 14, 2008	(729451)
Item 14	December 29, 2008	(729452)
Item 15	January 28, 2009	(752670)
Item 16	March 04, 2009	(752668)
Item 17	March 18, 2009	(752669)
Item 18	April 17, 2009	(770330)
Item 19	May 18, 2009	(810567)
Item 20	June 15, 2009	(810568)
Item 21	July 30, 2009	(810569)
Item 22	September 28, 2009	(810571)
Item 23	October 26, 2009	(810572)
Item 24	November 23, 2009	(810573)
Item 25	March 15, 2010	(810566)
Item 26	March 26, 2010	(810570)
Item 27	April 22, 2010	(832925)

Item 28	May 24, 2010	(832926)
Item 29	July 06, 2010	(867643)
Item 30	August 02, 2010	(867644)
Item 31	August 30, 2010	(867645)
Item 32	September 30, 2010	(888670)
Item 33	November 09, 2010	(882196)
Item 34	December 21, 2010	(897027)
Item 35	January 27, 2011	(909817)
Item 36	February 11, 2011	(902942)
Item 37	February 22, 2011	(909816)
Item 38	March 23, 2011	(917056)
Item 39	May 02, 2011	(927212)
Item 40	May 19, 2011	(938746)
Item 41	June 27, 2011	(946119)
Item 42	August 02, 2011	(953380)
Item 43	August 19, 2011	(960017)
Item 44	September 28, 2011	(966067)
Item 45	November 02, 2011	(972093)
Item 46	November 30, 2011	(978254)
Item 47	December 28, 2011	(985057)
Item 48	January 23, 2012	(991332)
Item 49	March 05, 2012	(998693)
Item 50	March 23, 2012	(1004218)
Item 51	April 19, 2012	(1010781)
Item 52	June 04, 2012	(1017151)
Item 53	June 25, 2012	(1024935)
Item 54	August 03, 2012	(1032285)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF BROADDUS  
RN101720928**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-2022-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Broaddus ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a wastewater treatment facility located at the end of Sheffield Street, approximately 0.7 mile southwest of the intersection of County Road 361 and Shippy Road, approximately 300 feet west of State Highway 147, adjacent to Caney Creek in San Augustine County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation conducted on August 6, 2012, TCEQ staff documented that the Respondent did not ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the electrical disconnect box serving lift station no. 2 was not located within the fence and the fence was not intruder resistant.
4. During an investigation conducted on August 6, 2012, TCEQ staff documented that the Respondent did not ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, one of the pumps in lift station no. 2 was not operational.
5. During an investigation conducted on August 6, 2012, TCEQ staff documented that the Respondent did not ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the grating for the bar screen was rusted and corroding.
6. During an investigation conducted on August 6, 2012, TCEQ staff documented that the Respondent did not ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, there were two feet of solids in the chlorine contact chamber and solids accumulations were noted in the discharge catch basin following the 60 degree V-notch weir.
7. During an investigation conducted on August 6, 2012, TCEQ staff documented that the Respondent did not ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, a vacuum breaker was missing from the hose bib outside the chlorination room.
8. During an investigation conducted on August 6, 2012, TCEQ staff documented that the Respondent did not prevent the discharge of sludge from the Facility into or adjacent to water in the state and failed to meet permitted effluent limits. Specifically, sludge was noted in the receiving stream at the outfall and approximately 75 feet downstream of the outfall and a grab sample documented that the chlorine residual maximum concentration exceeded the permitted limit. Additionally, a dead bluegill fish, a dying sunfish and a stressed catfish were noted near the outfall as shown in the table below:

<b>EFFLUENT PARAMETER</b>						
<b>Units/Permit Limit</b>						
	Ammonia	Ortho-phosphorus	Total Phosphorous	TKN	Minimum DO	Cl Residual
<b>Location</b>	mg/L	mg/L	mg/L	mg/L	4 mg/L	1-4 mg/L
Outfall	5.32	2.12	1.73	6.68	2.8	> 8.0
75 feet Downstream	8.60	4.03	3.79	9.48	2.1	1.33
75 feet Upstream	1.85	0.07	0.15	4.40	np	np

milligrams per liter = mg/L; not performed = np  
total kjeldahl nitrogen = TKN; dissolved oxygen = DO; chlorine = Cl

9. During an investigation conducted on August 6, 2012, TCEQ staff documented that the Respondent did not submit accurate monitoring results at the intervals specified in the permit. Specifically, the discharge monitoring report ("DMR") for the monitoring period ending January 31, 2012 had the values for DO and pH reversed.
10. During an investigation conducted on August 6, 2012, TCEQ staff documented that the Respondent did not collect effluent samples at the frequency specified in the permit. Specifically, *Escherichia coli* samples were not being collected monthly as required by the permit for the months of May and June 2012.
11. During an investigation conducted on August 6, 2012, TCEQ staff documented that the Respondent did not ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Respondent was bypassing the dual media gravity filters and sending the effluent directly to the last treatment process.
12. During an investigation conducted on August 6, 2012, TCEQ staff documented that the Respondent did not ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, an evaluation of the mixed liquor and solids inventory indicated that the Facility was operating outside the recommended ranges for mixed liquor suspended solids (MLSS) to mixed liquor volatile suspended solids (MLVSS) ratio and DO in treatment train No. 1 and for 30-minute settleability (SV-30), MLVSS concentration, and MLSS to MLVSS ratio in treatment train No. 2.
13. During an investigation conducted on August 6, 2012, TCEQ staff documented that the Respondent did not timely submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the annual sludge report for the reporting period ending July 31, 2011 to the TCEQ Beaumont Regional Office by September 30, 2011.
14. The Respondent received notice of the violations on October 10, 2012.



15. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. By August 9, 2012, installed a vacuum breaker at the hose bib outside the chlorination room;
  - b. By August 10, 2012, replaced the grating for the bar screen;
  - c. By August 13, 2012, provided the electrical disconnect box serving lift station no. 2 with an intruder resistant fence;
  - d. By August 16, 2012:
    - i. Removed all solids from the chlorine contact chamber by pumping them back into the wet well and washed out the chlorine contact chamber;
    - ii. Began collecting *Escherichia coli* samples at the frequency specified in the permit; and
    - iii. Properly removed and disposed of all accumulations of sludge in the receiving stream.
  - e. By August 22, 2012:
    - i. Adjusted the chlorinator and returned to compliance with permitted Cl residual and DO levels; and
    - ii. Removed all solids from treatment trains nos. 1 and 2 and returned operations at the Facility within the recommended ranges.
  - f. By October 12, 2012, installed a new pump at lift station no. 2;
  - g. By October 16, 2012:
    - i. Updated the Facility's operational guidance and conducted employee training to ensure that all reporting procedures are properly accomplished;
    - ii. Submitted the sludge report for the reporting period ending July 31, 2011 to the TCEQ Beaumont Regional Office; and
    - iii. Submitted a revised DMR for the monitoring period ending January 31, 2012 to include corrected data.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011772001, Operational Requirements No. 1, and 30 TEX. ADMIN. CODE § 305.125(1) and (5).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of TPDES Permit No. WQ0011772001, Operational Requirements No. 1, and 30 TEX. ADMIN. CODE § 305.125(1) and (5).
4. As evidenced by Findings of Fact No. 5, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of TPDES Permit No. WQ0011772001, Operational Requirements No. 1, and 30 TEX. ADMIN. CODE § 305.125(1) and (5).
5. As evidenced by Findings of Fact No. 6, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of TPDES Permit No. WQ0011772001, Operational Requirements No. 1, and 30 TEX. ADMIN. CODE § 305.125(1) and (5).
6. As evidenced by Findings of Fact No. 7, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of TPDES Permit No. WQ0011772001, Operational Requirements No. 1, and 30 TEX. ADMIN. CODE § 305.125(1) and (5).
7. As evidenced by Findings of Fact No. 8, the Respondent failed to prevent the discharge of sludge from the Facility into or adjacent to water in the state, in violation of TPDES Permit No. WQ0011772001, Effluent Limitations and Monitoring Requirements Nos. 2 and 6 and Permit Conditions No. 2.d., 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a).
8. As evidenced by Findings of Fact No. 9, the Respondent failed to submit accurate monitoring results at the intervals specified in the permit, in violation of TPDES Permit No. WQ0011772001, Monitoring and Reporting Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4.
9. As evidenced by Findings of Fact No. 10, the Respondent failed to collect effluent samples at the frequency specified in the permit, in violation of TPDES Permit No. WQ0011772001, Effluent Limitations and Monitoring Requirements No. 1 and 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4.

10. As evidenced by Findings of Fact No. 11, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of TPDES Permit No. WQ0011772001, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1) and (5).
11. As evidenced by Findings of Fact No. 12, the Respondent failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of TPDES Permit No. WQ0011772001, Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(1) and (5).
12. As evidenced by Findings of Fact No. 13, the Respondent failed to submit the annual sludge report to the TCEQ Beaumont Regional Office by September 30 of each year, in violation of TPDES Permit No. WQ0011772001, Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(17).
13. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
14. An administrative penalty in the amount of Nineteen Thousand Nine Hundred Twenty-Five Dollars (\$19,925) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid Five Hundred Seventy Dollars (\$570) of the administrative penalty. The remaining amount of Nineteen Thousand Three Hundred Fifty-Five Dollars (\$19,355) of the administrative penalty shall be payable in 35 monthly payments of Five Hundred Fifty-Three Dollars (\$553) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Nineteen Thousand Nine Hundred Twenty-Five Dollars (\$19,925) as set forth in Section II,

Paragraph 14 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Broadus, Docket No. 2012-2022-MWD-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Within 60 days after the effective date of this Agreed Order, develop and implement a solids management plan ("SMP"). The SMP shall outline a program of internal process control testing to monitor the efficiency of the wastewater treatment plant and to maintain the proper solids balance within the system. The plan shall be prepared by a Texas registered professional engineer. At a minimum, the plan shall include the following items:
    - i. A schedule for performing the following process control analysis and recommended ranges to be maintained: mixed liquor thirty-minute sludge settleability, MLSS, mixed liquor dissolved oxygen concentration, clarifier sludge blanket depth, and residual chlorine concentration;
    - ii. Procedures outlining actions to be taken in the event that any of the above process control analyses fall outside the recommended range; and
    - iii. Specific sampling locations for the above stated process control measurements.

Organized, written records of the process control analyses shall be maintained for a period of three years at the Facility in a daily log book and shall be made available to TCEQ representatives upon request.
  - b. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation to demonstrate that the Respondent has begun operating the Facility within the recommended range for DO and MLSS to MLVSS ratio in treatment trains nos. 1 and 2; and compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not

effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*Pam Moneir*  
For the Executive Director

2/18/14  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Broaddus. I am authorized to agree to the attached Agreed Order on behalf of City of Broaddus, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, City of Broaddus waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*Shirley J Parker*  
Signature

10/1/13  
Date

Shirley J Parker  
Name (Printed or typed)  
Authorized Representative of  
City of Broaddus

Mayor  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.